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Non-Unanimous Verdicts. Prisoners' Rights
Limitation. Extends Parole Terms. Sexually Violent
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Bill Jones
Secretary of State

1500 - 11th Street
Sacramento, CA 95814

Elections Division
(916) 657-2166
For Hearing and Speech
Impaired Only: (800) 833-8683

#678

November 13, 1995

TO: All County Clerks/Registrars of Voters (95145)

FROM: Cathy Mitchell
Cathy Mitchell
Initiative Coordinator

SUBJECT: **NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION.
EXTENDS PAROLE TERMS. SEXUALLY VIOLENT PREDATORS.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

The Attorney General's office has sent us a revised title and summary for initiative #677. The previous title was Reduced Jury Size. Non-Unanimous Verdicts. Prisoners' Rights. Parole. Sexually Violent Predators. Initiative Constitutional Amendment.

The new title and summary along with the new calendar and the text of the initiative has been prepared and supersedes the previous initiative. It is enclosed. Please note that a new number has been assigned to this initiative.

Please feel free to contact me if you have any questions.

1

2

3



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November 13, 1995

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (95145)

Pursuant to Section 336 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION.
EXTENDS PAROLE TERMS. SEXUALLY VIOLENT PREDATORS.
INITIATIVE CONSTITUTIONAL AMENDMENT.

Circulating and Filing Schedule

1. Minimum number of signatures required 693,230
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date Monday, 11/13/95
Elec. C., Sec. 336.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for
signatures Monday, 11/13/95
Elec. C., Sec. 336.
 - b. Last day Proponent can circulate and file with
the county. All sections are to be filed at
the same time within each county Wednesday, 04/10/96
Elec. C., Secs. 336, 9030(a)
 - c. Last day for county to determine total number of
signatures affixed to petition and to transmit total
to the Secretary of State Monday, 04/22/96
Elec. C., Sec. 9030(b)

(If the Proponents file the petition with the county on a date prior to 04/10/96, the county has eight working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 9030(b).

NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION.
EXTENDS PAROLE TERMS. SEXUALLY VIOLENT PREDATORS.
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- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties Wednesday, 05/01/96*
Elec. C., Sec. 9030(c)

- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Thursday, 06/13/96
Elec. C., Sec. 9030(d)

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 05/01/96, the last day is no later than the thirtieth day after the county's receipt of notification.)
Elec. C., Sec. 9030(d), (e).

- f. If the signature count is more than 762,553 or less than 658,569 then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 658,569 and 762,553 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures . . . Sunday, 06/23/96*
Elec. C., Secs. 9030(f), (g); 9031(a)

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 08/05/96
Elec. C., Sec. 9031(b), (c)

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 06/23/96, the last day is no later than the thirtieth working day after county's receipt of notification.)
Elec. C., Sec. 9031(b), (c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient Friday, 08/09/96*
Elec. C., Sec. 9031(d), 9033

* Date varies based on receipt of county certification.

NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION.
EXTENDS PAROLE TERMS. SEXUALLY VIOLENT PREDATORS.
INITIATIVE CONSTITUTIONAL AMENDMENT.

November 13, 1995

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4. The Proponents of the above-named measure are:

Edward R. Jagels
1215 Truxtun Avenue
Bakersfield, CA 93301
(805) 861-2421

Collene Campbell
33552 Valle Road
San Juan Capistrano, CA 92675
(714) 248-5470

5. Important Points:

- (a) California law prohibits the use of signatures, names and addresses gathered on initiative petitions for any purpose other than to qualify the initiative measure for the ballot. This means that the petitions cannot be used to create or add to mailing lists or similar lists for any purpose, including fund raising or requests for support. Any such misuse constitutes a crime under California law. Elections Code section 18650; Bilofsky v. Deukmejian (1981) 123 Cal.App. 3d 825, 177 Cal.Rptr. 621; 63 Ops. Cal.Atty.Gen. 37 (1980).
- (b) Please refer to Elections Code sections 100, 101, 104, 9001, 9008, 9009, 9021, and 9022 for appropriate format and type consideration in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Please send a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file.
- (c) Your attention is directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code section 81000 et seq.
- (d) When writing or calling state or county elections officials, provide the official title of the initiative which was prepared by the Attorney General. Use of this title will assist elections officials in referencing the proper file.
- (e) When a petition is presented to the county elections official for filing by someone other than the proponent, the required authorization shall include the name or names of the persons filing the petition.
- (f) When filing the petition with the county elections official, please provide a blank petition for elections official use.

NOTE TO PROPONENTS WHO WISH TO QUALIFY FOR THE NOVEMBER 5, 1996 GENERAL ELECTION: This initiative must be certified for the ballot 131 days before the election (June 27, 1996). Please remember to time your submissions accordingly. For example, in order to allow the maximum time permitted by law for the random sample verification process, it is suggested that proponents file their petitions to county elections officials by April 19, 1996. If a 100% check of signatures is necessary, it is advised that the petitions be filed by February 28, 1996.

Sincerely,



CATHY MITCHELL
ELECTIONS SPECIALIST

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550
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November 13, 1995

FILED

In the office of the Secretary of State
of the State of California

NOV 13 1995

Bill Jones
Secretary of State
1500 - 11th Street
Sacramento, CA 95814

By Bill Jones, Secretary of State
Deputy Secretary of State

Re: Initiative Title and Summary
Subject: NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION.
EXTENDS PAROLE TERMS. SEXUALLY VIOLENT PREDATORS.
INITIATIVE CONSTITUTIONAL AMENDMENT.
File No: SA 95 RF 0020 (REVISED)

Dear Mr. Jones:

Pursuant to the provisions of sections 9004 and 336 of the Elections Code, you are hereby notified that on this day we mailed to the proponents of the above-identified proposed initiative our revised title and summary.

Enclosed is a copy of our transmittal letter to the proponents, a copy of our revised title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the names and addresses of the proponents are as stated on the declaration of mailing.

Sincerely,

DANIEL E. LUNGREN
Attorney General

KATHLEEN F. DaROSA
Initiative Coordinator

KFD:ms
Enclosures

11-32

Date: November 13, 1995
File No: SA95RF0020 [REVISED]

The Attorney General of California has prepared the following title and summary of the chief purposes and points of the proposed measure:

NON-UNANIMOUS VERDICTS. PRISONERS' RIGHTS LIMITATION. EXTENDS

PAROLE TERMS. SEXUALLY VIOLENT PREDATORS. INITIATIVE

CONSTITUTIONAL AMENDMENT. Allows five-sixths majority verdicts in criminal

cases, except death penalty cases, and misdemeanor cases tried to a jury of nine or fewer

persons by stipulation. Limits prisoners' rights to those established by U.S. and California

constitutions. Repeals statute providing other prisoner rights. Increases length,

restrictiveness and penalties for violation of parole for certain offenders. Allows parole

hearings in any of five specified counties. Defines sexually violent predators and provides

process for their evaluation, adjudication and civil commitment. Summary of estimate by

Legislative Analyst and Director of Finance of fiscal impact on state and local government:

Overall, the measure would likely result in long-term annual savings in the range of tens of

millions of dollars for county criminal justice and social service programs while resulting in

long-term annual costs to the state in the hundreds of millions of dollars and one-time capital

outlay costs of up to \$1 billion to \$2 billion. Local savings would result from a probable

decrease in criminal trials as the result of non-unanimous verdict provisions and longer

parole revocation terms, and the transfer of sexually violent predators to state facilities.

State costs would result from the increase in the prison population due to increased terms for

parole violations; increased parole caseloads due to the increase in parole terms; and,

increased state costs due to the provisions regarding sexually violent predators.

Edward R. Jagels
1215 TRUXTON AVENUE
BAKERSFIELD, CA 93301
(805) 861-2421

Collene Campbell
33552 VALLE ROAD
SAN JUAN CAPISTRANO, CA 92675
(714) 248-5470

RECEIVED
SEP 12 1995

September 12, 1995

Attorney General
P.O. Box 944255
Sacramento, CA 95814-2550

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attn: Kathleen F. DaRosa, Initiative Coordinator
Re: Public Safety Protection Act of 1996 Initiative

Dear Ms. DaRosa:

This letter is written to formally request the Attorney General of the State of California prepare a title and summary of the amended proposed Public Safety Protection Act of 1996 Initiative that we have drafted and is enclosed with this letter. This amended version contains two minor non-substantative, clarifying changes.

Pursuant to Elections Code sections 9002 and 9607, the undersigned proponents declare under penalty of perjury that no appropriation for a particular project contained within the text of the attached proposed measure, if any, was included in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the attached proposed measure for the ballot.

We look forward to working with you for the formal registration of this matter as an Initiative. If you have any questions, please do not hesitate to contact either of us.

Sincerely,


Edward R. Jagels


Collene Campbell

THE PUBLIC SAFETY PROTECTION ACT OF 1996

SEC. 1. (a) The people of California find and declare that public safety is the most important duty of government. To carry out this duty, criminals must be adequately punished and sexually violent predators must be restrained and treated. In order to minimize further trauma to those who have already suffered from crime and to prevent excessive and unnecessary costs which undermine the state's ability to adequately punish crime, this duty must be carried out without imposing excessive burdens upon victims of crime, families of murder victims and the taxpayers of the state.

(b) Among the unnecessary and costly burdens imposed by existing law are:

(1) unnecessary and expensive retrials, forcing victims to testify again, caused by the refusal of one or two jurors to decide according to the evidence; (2) forcing murder victims' families to travel to remote prisons to object to parole for murderers; and (3) increased costs of imprisonment caused by granting prisoners rights beyond those constitutionally required, including the right to conjugal visits.

(c) Existing parole law inadequately protects the public. Parole supervision periods are too short and confinement after revocation of parole is limited to one year, regardless of the magnitude of either the parole violation or the original offense.

(d) Existing law on civil commitment fails to adequately protect the public from persons, who, by reason of mental defect, disease, or disorder, are dangerously predisposed to commit violent sexual acts.

(e) To remedy these deficiencies, the people of California hereby enact the Public Safety Protection Act of 1996.

SEC. 2. Section 16 of Article I of the California Constitution is amended to read:

16. (a) Trial by jury is an inviolate right and shall be secured to all, ~~but in a civil cause three-fourths of the jury may render a verdict.~~ A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

(b) In a civil ~~causes cause~~ the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In a civil ~~causes cause~~ in municipal or justice court the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court. *In a civil cause, three-fourths of the jury may render a verdict.*

(c) In a criminal ~~actions action~~ in which a felony is charged, the jury shall consist of 12 persons. *In a criminal action in which either a felony or misdemeanor is charged, five-sixths of the jury may render a verdict. However, in a criminal action in which the death penalty is sought, only a unanimous jury may render a verdict.* In a criminal ~~actions action~~ in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. *If the parties in a criminal action in which a misdemeanor is charged agree that the jury shall consist of nine or fewer persons, only a unanimous jury may render a verdict. In criminal cases, the constitutional right to jury trial is limited to the determination of guilt and does not extend to other matters, such as sentencing or competency, but jury trial of matters other than guilt may be provided by statute.*

SEC. 3. Nothing in this initiative is intended to abridge the authority of the trial judge to grant a new trial when a verdict or finding is contrary to law or evidence, pursuant to section 1181, subdivision 6 of the Penal Code.

SEC. 4. Section 2601 of the Penal Code is repealed.

~~§ 2601. Subject only to the provisions of that section, each person described in Section 2600 shall have the following civil rights:~~

~~— (a) To inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by such person during the period of imprisonment. However, to the extent authorized in Section 2600, the Department of Corrections may restrict or prohibit sales or conveyances that are made for business purposes.~~

~~— (b) To correspond, confidentially, with any member of the State Bar or holder of public office, provided that the prison authorities may open and inspect incoming mail to search for contraband.~~

~~— (c)(1) To purchase, receive, and read any and all newspapers, periodicals, and books accepted for distribution by the United States Post Office. Pursuant to this section, prison authorities may exclude any of the following matter:~~

~~— (A) Obscene publications or writings, and mail containing information concerning where, how, or from whom this matter may be obtained.~~

~~— (B) Any matter of a character tending to incite murder, arson, riot, violent racism, or any other form of violence.~~

~~— (C) Any matter concerning gambling or a lottery.~~

~~— (2) Nothing in this section shall be construed as limiting the right of prison authorities to do the following:~~

- ~~— (A) Open and inspect any and all packages received by an inmate.~~
- ~~— (B) Establish reasonable restrictions as to the number of newspapers, magazines, and books that the inmate may have in his or her cell or elsewhere in the prison at one time.~~
- ~~— (d) To have personal visits. However, the department may provide any restrictions that are necessary for the reasonable security of the institution.~~
- ~~— (e) To initiate civil actions, subject to a three dollar (\$3) filing fee to be collected by the Department of Corrections, and subject to Title 3a (commencing with Section 391) of the Code of Civil Procedure.~~
- ~~— (f) To marry.~~
- ~~— (g) To create a power of appointment.~~
- ~~— (h) To make a will.~~
- ~~— (i) To receive all benefits provided for in Sections 3370 and 3371 of the Labor Code and in Section 5069.~~

SEC. 5. Section 2601 is added to the Penal Code to read:

§ 2601. Each person described in Section 2600 is entitled only to those rights established by the California Constitution and the United States Constitution. Furthermore, any other activities permitted to any inmate beyond those required constitutionally shall be subject to rules established by the Director of Corrections who may grant privileges and specify allowable conduct for inmates on a group or individual basis. Notwithstanding any other provision of law or department policy, the Director of Corrections shall not permit unsupervised visits for any inmate who has been convicted of violating or attempting to violate Section 187, 208(d), 220, 261, 262, 286, 288, 288a,

288.5, or 289 of the Penal Code. No benefits pursuant to Sections 3370 and 3371 of the Labor Code shall be provided for any injury occurring after the effective date of this statute.

SEC. 6. Section 3041.8 is added to the Penal Code to read:

§ 3041.8. Notwithstanding any other provision of law, any meeting or hearing to review or consider the parole suitability or the setting of a parole date for any prisoner in a state prison may, in the sole discretion of the Board of Prison Terms, take place in Del Norte, Marin, Los Angeles, Sacramento or San Diego County. The specific site within each county shall be designated by the Board of Prison Terms. The county for such meeting or hearing shall be selected by determining the nearest of the five designated sites to the county from which the inmate was committed.

Any such meeting or hearing may be conducted by two-way electronic audiovisual communication. As used in Section 3041.5, "present" includes participation in the hearing by means of two-way electronic audiovisual communication.

The Board of Prison Terms shall develop policies and regulations to effectuate the provisions contained in this section within 36 months of the effective date of this statute.

SEC. 7. Section 3000.2 is added to the Penal Code to read:

§ 3000.2. Notwithstanding any provision to the contrary in Section 3000, Section 3000.1, Section 3001, Article 3 (commencing with Section 3040) of this chapter, or any other law, the following shall apply to any inmate convicted and sentenced to state prison for any crime committed after the effective date of this statute:

(a) Upon release from a state prison commitment for a maximum term of life imprisonment, there shall be a parole period of life.

(b) Except as provided in paragraph (a), upon release from a state prison commitment for any crime specified as a violent felony in subdivision (c) of Section 667.5 or as a serious felony in subdivision (c) of Section 1192.7, there shall be a parole period of fifteen years.

(c) Except as provided in paragraphs (a) and (b), upon release from a state prison commitment for any crime, there shall be a parole period of eight years.

(d) At the end of the period of parole specified for the inmate in paragraph (b) or (c), the inmate shall be discharged from parole. Notwithstanding any other provision of law, an inmate shall be discharged from parole only upon completion of the parole period specified or at the direction of the parole authority after having served all available confinement time pursuant to revocation of parole. The date of the statutory period of parole in paragraphs (a), (b) and (c) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not to have been in violation of parole.

(e) The Department of Corrections may determine the appropriate level of supervision for each inmate who is released on parole subject to the following provisions:

(1) No parolee sentenced under paragraph (b) of Section 1168 for the crime of first degree murder or the crime of second degree murder may be placed on summary parole until the parolee has been on parole continuously for seven years during which time the parolee has not been returned to custody for violation of parole. Such placement on

summary parole by the Department of Corrections may be made only with the concurrence of the parole authority.

(2) No parolee sentenced to a maximum term of life under paragraph (b) of Section 1168 for any crime other than first degree murder or second degree murder, for any crime specified as a violent felony in subdivision (c) of Section 667.5 or for any crime specified as a serious felony in subdivision (c) of Section 1192.7 may be placed on summary parole until the parolee has been on parole continuously for five years during which time the parolee has not been returned to custody for violation of parole. Such placement on summary parole by the Department of Corrections may be made only with the concurrence of the parole authority.

(3) Before being placed on summary parole, the parolee must agree in writing to abide by any of the conditions of his or her parole which the Department of Corrections or parole authority determines should remain in effect. In all cases, a condition of summary parole shall include provisions that the parolee not violate any criminal law and that he or she continue to be subject to search as provided in Penal Code Section 3000.3.

(4) The placement of a parolee on summary parole does not affect the parole period, the available confinement time for violation of parole or the right to revoke parole for a violation of the conditions of parole.

(5) The Department of Corrections in its discretion may, or at the direction of the parole authority must, by written notice informing the parolee of additional conditions of supervised parole, increase the level of supervision for any parolee who previously has been placed on summary parole.

(f) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

SEC. 8. Section 3000.3 is added to the Penal Code to read:

§ 3000.3. The Department of Corrections shall meet with each inmate at least 30 days prior to his or her release date and shall inform the inmate of the length of parole and the conditions of parole under guidelines specified by the parole authority. As a condition of parole, all parolees shall be required to submit to a search of his or her person, vehicle or residence at the request of any peace officer or parole officer at any time of the day or night with or without a search warrant and with or without cause. Prior to being released on parole, the parolee must agree in writing to abide by all conditions of his or her parole.

SEC. 9. Section 3057.1 is added to the Penal Code to read:

§ 3057.1. Notwithstanding any provision to the contrary in Section 3057, Section 3060.5 or any other law, the following shall apply to any inmate convicted and sentenced to state prison for any crime committed after the effective date of this statute:

(a) An inmate released on parole from a life sentence for first degree murder or second degree murder shall, upon a finding that he or she is in violation of parole, be returned to prison to serve the remainder of his or her term. Thereafter, there shall be a hearing as provided in Sections 3041.5 and 3041.7 to consider release of the inmate on parole.

(b) The total amount of confinement time which is available during a period of parole for crimes other than first degree murder or second degree murder shall be the greatest of the following available confinement time periods which are applicable to the inmate:

(1) Upon release of an inmate from an indeterminate sentence for a maximum term of life imprisonment other than for the crimes of first degree murder or second degree murder, there shall be available confinement time pursuant to a revocation of parole of twenty-five years.

(2) Upon release from a state prison commitment for any crime specified as a violent felony in subdivision (c) of Section 667.5 or any crime specified as a serious felony in subdivision (c) of Section 1192.7, there shall be available confinement time pursuant to a revocation of parole of eight years.

(3) Upon release of an inmate sentenced under Section 1170 to a determinate sentence and upon release of an inmate sentenced under paragraph (b) of Section 1168 to an indeterminate term for which the maximum sentence is less than life, there shall be available confinement time pursuant to a revocation of parole of five years.

(4) Upon release of an inmate sentenced to a term for which the sentence is one year and a day, there shall be available confinement time pursuant to a revocation of parole of three years.

(c) Upon finding that the allegations which are the basis for a revocation of parole are true, the parole authority may confine the parolee for a period not to exceed the remaining available confinement time. Revocation of parole based on conduct which also constitutes a violation of law shall not affect the right or obligation of the district attorney to prosecute the conduct criminally including, but not limited to, violations under Section 1170.12.

(d) For crimes or acts of misconduct committed while the inmate is confined following a revocation of parole, including a revocation of parole pursuant to Section 3060.5, the parole authority may extend the confinement pursuant to parole revocation for additional

periods of time consistent with paragraph (c), utilizing the procedures governing parole revocation proceedings.

(e)(1) Except as provided in subparagraphs (2) and (3), any custody time imposed under this section following a revocation of parole may be reduced in the same manner and to the same extent as a term of imprisonment for the offenses for which the inmate was on parole pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title I of Part III, Section 667 and Section 1170.12. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Worktime credit forfeited shall not be restored.

(2) A parolee shall not be eligible for credit under this subdivision if the parole authority finds at a revocation hearing that the parolee is unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation or because of prior criminal history.

(3) Parolees sentenced under Section 1168 with a maximum term of life imprisonment shall not be eligible for credit under this subdivision.

(f) The amount of available confinement time shall be reduced by any time in custody actually served by a parolee pursuant to a revocation of parole whether or not the parolee is found to be in violation of parole. The amount of available confinement time shall not be reduced by any credit on the term of imprisonment described in paragraph (e).

SEC. 10. Section 3060.1 is added to the Penal Code to read:

§ 3060.1 Any district attorney may apply to the parole authority for an order pursuant to Section 3060.

SEC. 11. Article 4 titled "Sexually Violent Predators" consisting of § 6600 to 6602 is added to Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

SEC. 12. Section 6600 is added to the Welfare and Institutions Code to read:

§ 6600 As used in this article, the following terms have the following meanings:

(a) Sexually violent predator means a person who has committed a sexually violent offense and who, by reason of a diagnosable mental defect, disease, or disorder, is predisposed to the commission of sexual offenses to such degree that he or she is a danger to the health and safety of others.

Evidence of the commission of any sexually violent offense, including a certified copy of a record of conviction, shall be admissible as proof that a person is a sexually violent predator, but shall not be the sole basis for the determination. Jurors shall be admonished that they may not find that a person is a sexually violent predator based on prior offenses absent relevant evidence of a current diagnosed mental disease, defect or disorder.

(b) Sexually violent offense means commission of an act which constitutes a violation or an attempted violation of any of the offenses enumerated in subdivision (d) of Penal Code Section 667.71.

(c) DMH means State Department of Mental Health.

SEC. 13. Section 6601 is added to the Welfare and Institutions Code to read:

§ 6601 (a) Whenever the Director of DMH, the Director of the Department of Corrections, the Chairman of the Board of Prison Terms, or a County Mental Health Director has reasonable cause to believe that a person may be a sexually violent predator, he or she shall refer the person to DMH for a full evaluation.

(b) Unless otherwise in custody, the person may be detained for an evaluation for no more than 45 days. A person not otherwise in custody who is detained for evaluation shall receive within 48 hours a hearing to determine whether there is probable cause to believe he or she is a sexually violent predator. The hearings shall be conducted in the same manner as the certification review hearing provided for in Section 5256 et. seq.

(c) DMH shall evaluate the person in accordance with a standardized protocol designed to determine whether the person is a sexually violent predator. The protocol shall require assessment of any mental defects, diseases, or disorders, as well as various factors known to be associated with the risk of reoffense by sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental defect, disease or disorder.

(d) If DMH concludes that the person is a sexually violent predator, a request for a petition seeking adjudication and civil commitment shall be submitted to the district attorney or county counsel in the county in which any of the sexually violent offenses occurred. A petition may be filed with the Superior Court by either the district attorney or the county counsel. Upon application of the petitioner, the person may be detained in custody without bail during the pendency of the proceedings.

(e) The hearing for civil commitment and treatment shall be subject to the same procedural requirements enumerated in Section 2972 of the Penal Code.

SEC. 14. Section 6602 is added to the Welfare and Institutions Code to read:

§ 6602 (a) A person adjudicated a sexually violent predator shall be committed to DMH for a period of not more than two years, unless the commitment is renewed using the procedures outlined in this chapter. The person shall receive treatment consistent with

current institutional standards for the treatment of sex offenders, which treatment shall be based on a structured treatment protocol developed by DMH. The protocol shall describe the number and types of treatment components that are provided in the program, and shall specify how assessment data will be used to determine the course of treatment for each individual offender. The protocol shall also specify measures that will be used to assess treatment progress and changes with respect to the individual's risk of offense.

(c) A person committed to DMH as a sexually violent predator may seek review of the commitment pursuant to Section 7250.

(d) A person committed as a sexually violent predator may be released on outpatient status pursuant to the procedures set forth in subdivision (d) of Section 2972 of the Penal Code.

SEC. 15. Sections 2 and 6 of this measure shall apply to all proceedings conducted after the effective date of this measure, regardless of the date of the crime. Sections 4 and 5 shall apply to inmates convicted of crimes committed prior to the effective date to the extent constitutionally permissible, and to those convicted of crimes committed on or after the effective date. Sections 7, 9 and 10 shall apply only in cases where the crime was committed on or after the effective date. Section 8, 11, 12, 13 and 14 shall take effect immediately on the effective date of this measure.

SEC. 16. The statutes enacted by this measure may be amended or repealed in the same manner as statutes enacted by the Legislature.

SEC. 17. If any provision of this measure or the application of any provisions to any person or circumstance is held invalid, that invalidity shall not affect other provisions or

applications which can be given effect without the invalid provision or application, and to this end the provisions of this measure are severable.